

APPEAL NO. 030241  
FILED MARCH 11, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 6, 2003. The hearing officer determined that the respondent (claimant) had disability due to his \_\_\_\_\_, compensable injury from November 30, 2001, to March 21, 2002, and that he has not had disability due to the injury from March 22, 2002, to the present. The hearing officer further determined that the claimant is entitled to change treating doctors under Section 408.022. The appellant (carrier) appealed both of these determinations on sufficiency of the evidence grounds. The file does not contain a response from the claimant.

DECISION

Affirmed.

We have reviewed the complained-of determinations and find that the hearing officer's Decision and Order is supported by sufficient evidence to be affirmed. Whether or not the claimant had disability presented a question of fact for the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a); Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). There was conflicting evidence presented on the disputed issue. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Nothing in our review of the record reveals that the hearing officer's determination regarding disability is so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Regarding the change of treating doctor issue, we review that matter on an abuse-of-discretion standard. There is an abuse of discretion when a decision maker reaches a decision without reference to guiding rules or principles (Morrow v. H.E.B., Inc., 714 S.W.2d 297 (Tex. 1986)). The hearing officer made a factual determination that the claimant requested a change of treating doctor because the claimant felt his current treating doctor "was inattentive to his complaints; that he still had severe and intense pain; that his injury had not received proper attention; that [his treating doctor] performed no diagnostics or physical therapy after the [c]laimant's surgery; that his surgery had worsened his condition; and that the [c]laimant perceived that [his treating doctor] was not looking out for the [c]laimant's best interests." We cannot say that the hearing officer abused his discretion.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CLARENDON NATIONAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**UNITED STATES CORPORATION COMPANY  
800 BRAZOS  
AUSTIN, TEXAS 78701.**

---

Daniel R. Barry  
Appeals Judge

CONCUR:

---

Chris Cowan  
Appeals Judge

---

Edward Vilano  
Appeals Judge